

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

_____)	
THE UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	
)	
THE COMMONWEALTH OF)	
MASSACHUSETTS, et al.)	Civil Action No. 05-10112 JLT
)	
Defendants, and)	
)	
THE COALITION FOR BUZZARDS BAY,)	
)	
Intervenor-Defendant)	
_____)	
)	
THE AMERICAN WATERWAYS OPERATORS,)	
et al.)	
Intervenor-Plaintiff)	
)	
v.)	
)	
MITT ROMNEY, Governor of Massachusetts, et al.)	
)	
Defendants)	
_____)	

**UNOPPOSED JOINT MOTION TO FURTHER ENLARGE TIME TO RESPOND TO
THE MOTIONS OF THE UNITED STATES AND THE INTERVENOR-PLAINTIFFS**

Defendant the Commonwealth of Massachusetts (the “Commonwealth”) and Intervenor-Defendant The Coalition for Buzzards Bay (“The Coalition”) (collectively, the “Defendants”), respectfully move for an enlargement of time up to, and including, July 12, 2005 to respond to the United States’ Motion for Summary Judgment and for an enlargement of time up to, and including, July 15, 2005 to respond to the United States’ and Intervenor-Plaintiffs’ Motions for Judgment on the Pleadings. Responses to all motions are currently due by June 29, 2005. The

United States does not oppose this Motion. The Intervenor-Plaintiffs assent to this Motion as regards Intervenor-Plaintiffs' Motion for Judgment on the Pleadings and do not oppose it as regards the United States' Motion for Judgment on the Pleadings and the United States' Motion for Summary Judgment.

In support of this Unopposed Joint Motion, the Defendants state that:

1. The United States filed its Motion for Summary Judgment and Motion for Judgment on the Pleadings on May 23, 2005. Shortly thereafter, in the course of discussions with counsel for Intervenor-Plaintiffs regarding an appropriate briefing schedule for this matter, the Defendants were informed that Intervenor-Plaintiffs would be filing a dispositive motion on or about June 3, 2005. On June 2, 2005, Defendants submitted an Unopposed Joint Motion to Enlarge Time to Respond to the Motions of the United States and Intervenor-Plaintiffs. At that time, Defendants each intended to submit a consolidated response to the United States' Motion for Judgment on the Pleadings and Intervenor-Plaintiffs' motion, as well as, to the extent appropriate, the United States' Motion for Summary Judgment. Based on the expectation that Intervenor-Plaintiffs would be filing their motion imminently, the Defendants requested an extension of time to respond to the United States' Motion for Summary Judgment, the United States' Motion for Judgment on the Pleadings and the Intervenor-Plaintiffs' motion up to, and including, June 29, 2005. The Court granted the Motion on June 6, 2005.

2. While the Defendants expected that the Intervenor-Plaintiffs would be filing a motion on or about June 3, 2005, the Intervenor-Plaintiffs did not file their Motion for Judgment on the Pleadings until June 23, 2005. As Defendants currently each intend to submit a consolidated response to the United States' and Intervenor-Plaintiffs' Motions for Judgment on the Pleadings, Defendants require a reasonable period of time to review both motions together in order to

prepare meaningful consolidated responses to them. The six days between the June 23, 2005 filing of the Industry's motion and the current June 29, 2005 deadline is inadequate in this regard.

3. Counsel for the Coalition have previously scheduled summer vacations in the period immediately following June 29, 2005. Specifically, both counsel of record for the Coalition will be out from July 2, 2005 until July 11, 2005. The requested enlargement will accommodate these previously planned periods away from the office.

4. Lead counsel for the Commonwealth learned for the first time last week that his office will be moved to "swing space" in another building on either June 29, June 30, or July 1, 2005 because of renovations to his current facility. Lead counsel has had the same office since early 1993 and handles multiple major cases with extensive filing demands. As a result, he has had to devote much time over the last week to preparing for his sudden office move. The requested enlargement will accommodate this unexpected but large-scale disruption as well.

For the foregoing reasons, the Commonwealth and The Coalition respectfully request that the Court enlarge their time for serving their responses in this matter as follows:

1. Enlarge the time for serving a response to the United States' Motion for Summary Judgment until July 12, 2005; and,

2. Enlarge the time for serving a response to the United States' and Intervenor-Plaintiffs' Motions for Judgment on the Pleadings until July 15, 2005.

Respectfully submitted,

THOMAS F. REILLY
ATTORNEY GENERAL

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THE COALITION FOR BUZZARDS BAY

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Dated: June 27, 2005

CERTIFICATION PURSUANT TO LOCAL RULE 7.1(A)(2)

I, Jonathan M. Ettinger, hereby certify that I conferred with counsel for the United States on June 27, 2005, and counsel for the United States indicated his intent not to oppose the requested enlargement of time. I further certify that I am informed by counsel for the Commonwealth that he conferred with counsel for the Intervenor-Plaintiffs on June 27, 2005 and that counsel for the Intervenor- Plaintiffs has assented to this Motion as regards Intervenor-Plaintiffs' Motion for Judgment on the Pleadings and does not oppose it as regards Plaintiff's Motion for Judgment on the Pleadings and Plaintiff's Motion for Summary Judgment.

/s/ Jonathan M. Ettinger